IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

WRIT PETITION NO.10752 OF 2004

Chandni Narendra Rupani. ...Petitioner.

Versus

Narendra Murlidhar Rupani. ...Respondent.

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Ms.Sujata Palav i/b. Ms. Purnima Bhatia for the Petitioner.

Respondent in person.

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CORAM : DR. D.Y. CHANDRACHUD, J.

May 5, 2005.

P.C.:

Rule, by consent returnable forthwith. Counsel appearing for the Respondents waives service. By consent of Counsel and at their request taken up for hearing and final disposal.

2. The Respondent has filed a petition for a declaration that the marriage solemnized between the parties on 21st April 2002 is null and void and for a decree of dissolution under Section 13(1)(ia) of the Hindu Marriage Act, 1955. The Petitioner herein, who is the Respondent before the Family Court, filed an application for maintenance. The Principal Judge of the Family Court rejected the application holding that since the Petitioner claims maintenance as a lawfully wedded wife of the Respondent, she must prima facie show that fact. The Principal Judge held that the Petitioner had not produced any photographs of the marriage showing the essential ceremony of 'Saptapadi' being performed by the parties. The Petitioner had produced before the Family Court, her pass-port in the marital name, a Pan Card, and the Bank Pass-Book again in the marital name. In my view, the entire approach adopted by the Family Court in the present case is specious. At this stage, the Court was dealing with an application for the grant of maintenance. The case of the Petitioner is that the Respondent had dispossessed her from the matrimonial home on 3rd May 2003. At this stage, this Court is not really concerned with the truthfulness of these allegations. However,

it was in my view, not appropriate for the Family Court to reject the application for maintenance in a summary manner in which it has been done in the present case. The facts of the case require a more careful consideration and I am, therefore, of the view that the impugned order of the Family Court has to be quashed and set aside. The Petition is allowed. The impugned order dated 13th September 2003 is quashed and set aside. Interim Application No.81 of 2003 shall stand restored to the file of the Family Court for fresh consideration of the application for maintenance. The petition is accordingly disposed of.

3. The Court is informed that the mater is listed before the Family Court on 20th May 2005. On that date, the Family Court shall issue such further directions as are necessary in consequence of this order.

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